

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* X. M. MORIN, Minor.

UNPUBLISHED  
December 16, 2014

No. 322040  
Allegan Circuit Court  
Family Division  
LC No. 13-051468-NA

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Before: RIORDAN, P.J., and BECKERING and BOONSTRA, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court order terminating his parental rights to his minor daughter pursuant to MCL 712A.19b(3)(b)(i) (parent caused sexual abuse and reasonable likelihood of future abuse), (c)(i) (failure to rectify conditions of adjudication), and (j) (reasonable likelihood child will be harmed if returned to parent). We affirm.

I. STATUTORY GROUNDS

A. STANDARD OF REVIEW

Respondent first contends that the trial court erred in finding the statutory grounds for termination. We review for clear error a trial court's finding that a statutory ground for termination was proven by clear and convincing evidence. *In re B & J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). "A decision is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *Id.* at 17-18 (quotation marks and citation omitted).

B. ANALYSIS

MCL 712A.19b(3)(b)(i) provides for termination when: "The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home."

Here, the minor made repeated disclosures of sexual abuse to family members, a forensic interviewer, and her counselor. The minor consistently identified the respondent as the perpetrator, claiming that he would touch her genital region. She was afraid of him and did not want to see him. Her claims were corroborated by her grandmother, who observed the minor displaying sexualized behaviors.

Respondent, however, raises numerous challenges to the minor's allegations. These are the same arguments he presented to the trial court. The trial court rendered a credibility decision and found that the minor was being truthful. "It is not for this Court to displace the trial court's credibility determination." *In re HRC*, 286 Mich App 444, 460; 781 NW2d 105 (2009). Furthermore, there was no evidence that the minor was being coached. Her counselor testified to the belief that the minor was being truthful. Nor was there evidence that anyone whom the mother was dating touched the minor inappropriately. The minor never wavered in identifying respondent as the perpetrator. With respect to inconsistencies in the minor's statements, as the trial court found, the fundamental allegations—that respondent touched her inappropriately—remained unchanged throughout these proceedings. Finally, the fact that respondent was never charged criminally is not dispositive. Not only is the burden of proof lower in termination proceedings, we have never held that criminal liability is a requirement of MCL 712A.19b(3)(b)(i).

Nor did the trial court clearly err in finding a reasonable likelihood that the minor would suffer additional abuse if returned to respondent's care. MCL 712A.19b(3)(b)(i). As the trial court recognized, respondent continually disputed the veracity of the minor's disclosures, despite the existence of corroborating evidence, and he maintained that the minor was being coached. Respondent was unwilling to acknowledge the sexual abuse or discuss how this abuse affected the minor. Respondent became frustrated and upset any time the counselor broached this topic, and he expressed a desire to end his counseling sessions because he felt the counselor was addressing the "same exact thing" repeatedly. Respondent's psychological evaluation indicated that he lacked insight into his many parenting deficiencies and into the impact they had on the minor. In light of such circumstances, we find no error in the trial court's finding that there is a reasonable likelihood of future harm. MCL 712A.19b(3)(b)(i).

Respondent, however, contends that the trial court erred in finding a likelihood of future harm because DHS failed to adhere to all of the psychologist's recommendations or provide sufficient services. Respondent's argument is not persuasive considering his failure to show any significant benefit from the services in which he did participate. Respondent participated in counseling to address his anger and sexual abuse issues. His counselor testified that further counseling would not be helpful because respondent was "pretty angry," he did not seem to benefit, and he clearly did not "buy into" counseling. Throughout the pendency of this case, respondent made several violent threats against DHS officials. He adamantly refused to acknowledge or address the underlying allegations of sexual abuse. In fact, he referred to the minor's forensic interview, in which she disclosed the abuse, as "hilarious."

Respondent was not tasked with mere participation in the services offered. Rather, he had to participate *and* sufficiently benefit from the services in order to address the causes of concern. *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). Because respondent failed

to sufficiently benefit from the services in which he participated, we find no error requiring reversal.<sup>1</sup>

## II. BEST INTERESTS

### A. STANDARD OF REVIEW

Respondent also contends that the trial court erred in finding that termination was in the child's best interests. We review for clear error a trial court's decision regarding a child's best interests. *In re Rood*, 483 Mich 73, 90; 763 NW2d 587 (2009). "A finding is clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *Id.* (quotation marks, citations, and brackets omitted).

### B. ANALYSIS

In determining the best interest of a child, the trial court may consider the child's bond to the parent, the parent's parenting ability, the advantages of a foster home over the parent's home, and the child's need for permanency, stability, and finality. *In re Olive/Metts*, 297 Mich App 35, 41-42; 832 NW2d 144 (2012). "[O]nce a statutory ground is established, a parent's interest in the care and custody of his or her child yields to the state's interest in the protection of the child." *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009).

Respondent has never been the minor's primary caregiver, and he has continued to experience significant anger issues. The sexual abuse allegations had a profound effect on the minor's mental and emotional well-being; she was afraid of respondent and did not want to see him. Respondent utterly failed to recognize the emotional trauma the minor was suffering. Moreover, the minor was doing well with her maternal grandmother. The grandmother expressed interest in adopting the minor, and the minor's counselor recommended she remain with the grandmother. Therefore, the trial court did not clearly err in finding that termination was in the minor's best interests.

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<sup>1</sup> We decline to address the alternate grounds for termination because "[i]t is only necessary for the DHS to establish by clear and convincing evidence the existence of one statutory ground to support the order for termination of parental rights." *In re Frey*, 297 Mich App at 244.

### III. CONCLUSION

The trial court did not clearly err in terminating respondent's rights pursuant to MCL 712A.19b(3)(b)(i), or in finding that termination was in the child's best interests. We affirm.

/s/ Michael J. Riordan

/s/ Jane M. Beckering

/s/ Mark T. Boonstra